

1. Definitions

In these Terms and Conditions:

‘**OUPSA**’ means Oxford University Press Southern Africa (Pty) Ltd or its duly appointed agent;

‘**Customer**’ means the person(s) or firm or company or institution purchasing goods from OUPSA;

‘**Goods**’ means the books, products or other articles sold by OUPSA;

‘**Export sales**’ means sales into countries other than to the Republic of South Africa;

‘**Public Official**’ means any person whose remuneration is funded by taxes and / or who is employed by government or any other state entity.

2. General

2.1. All orders for the sale of goods accepted by OUPSA are subject to these Terms & Conditions which may only be varied by an authorized official of OUPSA, in writing.

2.2. OUPSA reserves the right to change these conditions of sale by giving written notice. Except as provided above, these Terms & Conditions override all conditions provided by the Customer.

2.3. All sales are firm sales unless otherwise agreed at the time that the order is accepted. OUPSA does not supply goods on a “Consignment Stock” or on a “Sale or Return” basis unless specifically agreed in writing by the relevant OUPSA Sales Manager prior to the order being placed.

2.4. Each invoice issued to the Customer shall constitute a separate contract on the terms of that invoice and these terms and conditions, and there shall not be implied into the terms of the contract any continuing obligation to supply the Customer after fulfilment of each invoice. No notice period shall be required to be given by OUPSA should OUPSA decide to cease trading with the Customer.

3. Prices

3.1. The price charged by OUPSA for each publication shall be its recommended retail price (including VAT, where applicable) on the date the order is processed, less the appropriate trade discount. OUPSA reserves the right to adjust prices and trade discounts without notice.

3.2. All quotations or estimates given by OUPSA are subject to OUPSA’s confirmation of its acceptance of an order and to availability of the goods. Unconfirmed quotations or estimates shall lapse 14 days after issue, unless otherwise agreed in writing by OUPSA.

4. Discount and Credit Terms

4.1. All goods are supplied subject to standard discount and credit terms in force at the date of the Invoice, and to credit limits agreed between OUPSA and the Customer. OUPSA reserves the right to exercise complete discretion in respect of credit facilities, which may be withdrawn without notice.

4.2. Any claim relating to the price of goods as stated on the invoice and in particular a claim that the invoice price does not match the quotation or other agreed terms must be notified in writing by the Customer to OUPSA within 7 days of receipt of the goods.

4.3. Should payment of any amount not be made timeously, the grant of any discount relating to such amount may at the discretion of OUPSA be withdrawn.

5. Quantities & Editions

Where the Customer does not specify which edition of a book or other product is required and there is more than one, OUPSA will normally supply the latest available. No variation by OUPSA in the manufacture or design of any goods will constitute a breach of contract or impose any liability upon OUPSA.

6. Physical delivery**6.1. Sales in the Republic of South Africa**

6.1.1. Goods will be delivered carriage paid to stipulated point of delivery. Means of carriage is at OUPSA's discretion. In circumstances where the Customer requests a different method of transport such as overnight freight the total cost shall be borne by the Customer.

6.1.2. OUPSA reserves the right to impose a delivery cost surcharge on deliveries of small numbers of books.

6.2. Export sales

6.2.1. Goods will normally be delivered carriage paid to stipulated point of delivery. Means of carriage is at OUPSA's discretion.

6.2.2. OUPSA reserves the right to recover freight costs on deliveries to Customers in countries that are not members of the Southern African Customs Union (SACU).

6.2.3. In circumstances where the Customer requests a different method of transport such as overnight freight the total cost shall be borne by the Customer.

6.3. Time for delivery

6.3.1. OUPSA will use its reasonable endeavours to meet any agreed delivery date but does not guarantee to do so and time of delivery shall **not** be of the essence of the contract, unless expressly so agreed in writing by OUPSA.

6.3.2. Each delivery of any part of an order will be deemed to constitute a separate enforceable contract to which these Terms & Conditions will apply.

6.4. Defective goods

6.4.1. The Customer shall inspect the goods within 15 (fifteen) working days of their delivery and shall give written notification to OUPSA of any shortages or manufacturing faults revealed by that inspection.

6.4.2. OUPSA will replace such goods as it agrees to be faulty provided that such replacement can be made from current stock.

6.4.3. If replacement cannot be made from stock, OUPSA will record a backorder for supply on arrival of new stock or, if so requested, credit the invoice value of any faulty goods.

7. Export and Import Licences

Unless otherwise agreed in writing, it shall be OUPSA's responsibility to obtain any export licence and the Customer's responsibility to obtain any import licence required in respect of goods supplied.

8. Returns policy

8.1. Products sold on firm sale

All products are sold on firm sale unless otherwise stated on the invoice, or in a separate, documented returns agreement approved by the relevant OUPSA Sales Manager.

8.2. Exceptional circumstances under which returns will be accepted

Notwithstanding that products are sold on a firm sale basis, returns will be accepted under the following circumstances provided that the over-riding conditions in Section 8.3 below are satisfied:

8.2.1. OUPSA Service Faults

8.2.1.1. OUPSA will honour returns requests arising from any service fault on our part.

8.2.1.2. Examples of such service faults are: too many books supplied; wrong books supplied; incorrectly bound books; damaged books; books supplied later than the date stipulated in the confirmed order.

8.2.1.3. Full credit will be passed for returns in this category or replacements provided (as per Customer's preference)

8.2.1.4. The cost of freight for books returned and/or for the supply of replacements will be borne by OUPSA.

8.2.2. Customer error

8.2.2.1. All requests to accept returns must be motivated in writing and may be considered by OUPSA and either declined or authorised. Authorisation will be at the discretion of OUPSA and returns authorisation will be without prejudice to OUPSA.

8.2.2.2. The cost of freight for books returned and/or for the supply of replacements will be borne by the Customer.

8.3. Overriding conditions governing all returns:

- 8.3.1. Advance authorisation from OUPSA for the return of any products must be obtained in writing. Authorizations are valid for 30 days only. Products returned without prior written authorisation will be returned to the sender and the cost of return will be for the account of the sender. Return Requests must be addressed to OUPSA Customer Services.
- 8.3.2. Books will be accepted for return only if they are in mint, re-saleable condition when received by OUPSA. Books with stickers/sticker marks, bar-code strips, School stamps, or pen marks on or in them will not be accepted. (This condition will not apply to books returned because they were misbound or damaged.)
- 8.3.3. Returns for books damaged in transit / during delivery must be requested and made within 15 (fifteen) working days of receipt of stock.
- 8.3.4. Returns request documentation must include original invoice details.
- 8.3.5. No returns or credit will be passed on books invoiced more than 3 months previously, unless otherwise stated on the invoice or in a separate, documented returns agreement.
- 8.3.6. Returns requests will only be considered if the Customer's account is maintained in line with agreed credit terms.
- 8.3.7. Old Editions, in respect of Higher Education titles only, will be considered for return only if they are replaced with an equal or higher order volume within 6 months of the new Edition becoming available.
- 8.3.8. No returns will be considered for OTO titles (imported, non-stocked items) or titles that are OP (out of print).

9. Risk and Title

- 9.1. The risk (relating to publications delivered) passes to the Customer on physical delivery to the delivery address stipulated by the Customer.
- 9.2. Notwithstanding the delivery and possession of any goods purchased, legal and beneficial ownership shall not pass to the Customer until payment in full is received by OUPSA.
- 9.3. OUPSA shall be entitled to enter the Customer's premises (or the Customer's agent's premises where that agent is storing goods on the Customer's behalf) to retrieve and re-possess any goods owned by OUPSA so as to discharge any sums owed to OUPSA, or to enforce the provisions of Clause 12.

10. Payment, interest and costs

- 10.1. Unless otherwise agreed in writing, the Customer undertakes to make payment within thirty days, or such extended period authorised in writing by OUPSA, from date of statement. In the event of the Customer not paying any amount which is due, then any other amounts which are outstanding and not due will immediately become due, owing and payable without further notice to the Customer.
- 10.2. Payment by credit card is subject to OUPSA's prior approval and a handling fee of 4% of the sale value.
- 10.3. If any amount owing is not paid on due date, then the Customer shall be liable for interest at 2 % above the prime overdraft interest rate, determined from time to time by the Standard Bank of South Africa Limited, charged on the overdue amount from due date to date of payment.
- 10.4. Should OUPSA instruct attorneys to collect any amount owing by the Customer, the Customer agrees that he/she/it will be liable for all costs, including all legal costs on the scale as between attorney and client, and collection commission that may be charged in respect of the collection thereof, together with an administration fee of 10% of the amount collected.
- 10.5. OUPSA reserves the right to invoice goods which are not immediately supplied but are reserved for consolidation in order to secure economic freight costs.

11. Orders and Cancellation of Orders

- 11.1. Orders may be placed with OUPSA by email, facsimile, via our website, or through OUPSA's sales representatives.
- 11.2. A Customer generated Purchase Order number must be quoted in all instances when an order is placed.
- 11.3. Once despatched, goods must be accepted and paid for by the Customer and cancellation will not be accepted.
- 11.4. Imported Titles are not usually carried in stock by OUPSA. Once an order has been placed by OUPSA on our supplier in response to a Customer's order for an Imported (OTO) Title(s), we will **not** accept cancellation of the Customer's order, and the OTO Title(s) must be accepted and paid for by our Customer.

12. Withdrawal of goods

- 12.1. OUPSA reserves the right to withdraw from Customers any goods which are the subject of a libel action, or for any other reason at OUPSA's complete discretion, and to forbid the re-sale of any goods which OUPSA's Customer has purchased. OUPSA undertakes to bear the expense of the return of such items and also to credit the purchase price. OUPSA completely disclaims responsibility for the continuing sale of goods which OUPSA has asked to be withdrawn, and any such responsibility will pass to the Customer acting in defiance of OUPSA's instructions.
- 12.2. The Customer shall co-operate fully in any withdrawal (at the expense of OUPSA) by OUPSA of any goods pursuant to this clause and shall give all reasonable assistance requested by OUPSA in recovering the goods and preventing their sale to third parties.

13. Ethical Conduct

The Customer undertakes to OUPSA that in relation to any business conducted in relation to OUPSA's products:

- 13.1. It will not offer, give or receive bribes or inducements for any purpose whether directly or through a third party
- 13.2. It will always behave ethically when competing for Customers business and when placing business with Suppliers
- 13.3. It will not offer financial or other inducements to public officials

14. Amendments

- 14.1. OUPSA reserves the right to alter or amend these Terms & Conditions of Sale generally, or for any particular class of goods or Customer. Customers should refer to the latest Terms & Conditions of sale, which are available upon requests or from OUPSA's website [www.oxford.co.za]
- 14.2. OUPSA should immediately be notified in writing of any changes to the Customer's ownership or status.

15. No Waiver

Failure by OUPSA to enforce any of the provisions hereof shall not be construed as a waiver of its rights nor prejudice OUPSA's right to take subsequent action.

16. Force Majeure and Liabilities

- 16.1. No liability shall attach to OUPSA for loss or damage or delivery delays or failure to manufacture or supply goods arising from factors outside its reasonable control including but not limited to acts of God, acts or omissions of civil or military authority, war, fire, flood, nature, disasters, labour disputes, plant breakdown, shortage of supplies, or compliance with orders lawfully given by any public authority.
- 16.2. The express terms of these Terms & Conditions together with any other terms expressly agreed subject to Clause 2 above, set out the Customer's remedies in the event that the goods prove defective, are not delivered on time or OUPSA is otherwise in breach of contract.
- 16.3. In any event, OUPSA's liability under or in connection with the supply of the goods, whether in contract, common law, breach of statutory duty or otherwise shall not, except where expressly provided for in these Terms or where such liability cannot be excluded or limited by law, exceed the price paid by the Customer for the goods.

16.4. These Terms are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law, and in any event, OUPSA shall have no liability arising out of or in connection with the supply of the goods for indirect, special or consequential losses, wasted or lost management time or time of other employees or for loss of profits or contracts, howsoever caused.

17. Use and Disclosure of Customer's information

17.1. OUPSA and the Customer undertake to each other that they will comply with the Protection of Personal Information Bill 2009 insofar as it relates to this Agreement.

17.2. The Customer consents to OUPSA carrying out a credit enquiry in respect of the Customer and understands that the personal information supplied in the Account Application form is to be used by OUPSA for purposes of assessing the Customers credit worthiness.

17.3. The Customer agrees that OUPSA will not be liable for any inaccuracies resulting from the provision of information in this application or from the Customers failure to notify OUPSA in writing of any changes to the details / information supplied herein.

18. Construction

The legal construction of these paragraphs shall not be affected by their headings which are for convenience only.

19. Assignment

19.1. The Customer may not assign or transfer or sub-contract to any third party its rights or obligations under these Terms without the prior written consent of OUPSA.

19.2. OUPSA may perform any of its obligations or exercise any of its rights under these Terms by itself or through any company or other person which is a subsidiary of OUPSA or in which OUPSA has directly or indirectly a controlling interest, or through any appointed agent.

20. Severability

If any provision of these Terms is or at any time becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining provisions of these Terms shall not in any way be affected.

21. Service of Notices

21.1. The Customer nominates as their preferred address ("domicilium citandi et executandi") for purposes of service of all processes, notices and the like the address reflected in Section 1 of their Account Application Form, as amended by the Customer from time to time.

21.2. Any notice or other communication given under these Terms and Conditions shall be deemed to be properly given by either OUPSA or the Customer if it is:

21.2.1. sent in legible form by facsimile transmission, or by registered post or personal delivery to OUPSA, Vasco Boulevard, N1 City, Goodwood, Cape Town, South Africa 7460 or to the Customer at the Customer's last known address, or

21.2.2. if it is sent by email to the last known email address of OUPSA or the Customer.

22. Law

22.1. These Terms & Conditions and any other terms of the sales contract shall be governed and construed in accordance with the Laws of the Republic of South Africa.

22.2. The Customer and anyone who stands as Surety for the obligations of the Customer hereby consent in terms of Section 45 of the Magistrate's Court Act to the jurisdiction of the Magistrate's Court having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount claimed may exceed its jurisdiction.